Law vol 12

A
DISQUISITION
UPON THE
CRIMINAL LAWS;

SHEWING THE
Neceſſity of Altering and Amending them:
WITH A
PLAN OF PUNISHMENT,
Whereby Offenders might be rendered ſerviceable
to the Community.

THE
EXISTENCE of WITCHES Inveſtigated;
And how far a DOCTRINE of FATE is conſiſtent with
GOD's moral and religious Government of the World.

ALSO,
REFLECTIONS UPON
DUELLING, SUICIDE,
THE FRENCH REVOLUTION, &c.

By the Rev. E. GILLESPY, K
CURATE of BLISWORTH, NORTHAMPTONSHIRE.

Denique quatenus excidi penitus vitium iræ,
Cætera item nequeunt ſtultis hærentia; cur non
Ponderibus moduliſque ſuis ratio utitur; ac res
Ut quæque eſt, ita ſuppliciis delicta coërcet?
————————————*adſit*
Regula peccatis, quæ pœnas inroget æquas:
Ne Scutica dignum, horribili ſectere flagello.
Hor. Sat.

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A
DISQUISITION
UPON THE
CRIMINAL LAWS, &c.

THE moſt important queſtion that man is capable either of aſking or reſolving is, for what end he was created, and endued with the noble faculties of reaſon and underſtanding, which diſtinguiſh him from every other being? From which it is evident, that he was not created to be an idle ſpectator of the world and himſelf, and then to fall into nothing; but to find out him by whom he lives, moves and has his being; to promote the glory of his Creator, and the benefit of his fellow creatures. And whoever purſues this end, may be aſſured, that by ſo doing he will anſwer the end of his creation, and in due time obtain a reward. He that regards the human ſpecies with an eye of benevolence, ought not only to wiſh that mankind were happier than they are, but ſhould endeavour by ſome means or other to render his wiſh effectual, by the performance of ſuch actions as are moſt likely to promote that end.

Such a conduct will alſo be a means of advancing both our temporal and ſpiritual happineſs; it will render us moſt like to our Creator, by a conformity to his nature here;

and will conſequently prepare us for the enjoyment of him hereafter. Therefore I ſhall endeavour to ſhew our obligation to this duty, both by the light of nature and of revelation.

By the light of nature we cannot but diſcover our Creator. The wonders of an almighty Power exerted in the creation and government of the natural world, remain a ſtanding evidence of his exiſtence to all generations. We need only caſt our eyes up to heaven and view the beauty and order of the celeſtial bodies, and we cannot be ignorant of the author of them. They continue conſtantly to perform thoſe revolutions which the all-wiſe Creator impoſed upon them: and what is this but the evident hand of an almighty Power, conſtantly exerted in the performance thereof? And this is an evidence which all the incredulity in the world cannot withſtand; it carries conviction to the ſenſes, and ſilences the tongue of atheiſm and infidelity; they muſt, as the Pſalmiſt ſays, be dumb and open not their mouth, for it is God's doing.

By the ſcience of aſtronomy it is diſcovered that this world has both its annual and diurnal revolutions; whereby the Sun, that glorious luminary and repreſenter of almighty Power, has an opportunity of affording equal light to every part of it. And this is a wonderful diſplay of the juſtice and impartiality of the Deity, and declares to us that he is good to all, and that his tender mercies are over all his works; and it alſo points out to us ſome of the relative duties which we owe to him and to our fellow creatures. And as none can ſtay his hand in the operations of his general providence, neither ought we to cenſure particular occurrences, as if they were partially and unjuſtly performed.

But we ought carefully to diſtinguiſh between the operations of Providence, and thoſe occurrences which are a conſequence of human frailty and partiality; for we do but charge God fooliſhly when we place that to his account which he has only permitted, and which it was our buſineſs to have prevented. A want of a proper diſtinction between the permiſſions and operations of providence has led men to entertain miſtaken notions of the Deity, and ſuch as are inconſiſtent with man's free agency, and God's moral and religious government of the world. And as the Deity does nothing in vain, I think we may diſcern ſome of his moral intentions in ordering a variety of climate to take place, and which probably was, that mankind might be diſperſed over the world, and of different languages and colours, in order to prevent them from congregating and quarrelling about the neceſſaries of life.

And upon this principle, it is evident, that one nation cannot invade the territories of another of a different language and colour, in order to diſpoſſeſs them of their natural rights, without offering violence to the intentions of Providence. And it may be queſtioned, how far it is prudent and conſiſtent with the intentions of nature for individuals of a different language and colour, to form a connection even by matrimony; for this difference will naturally create a prejudice between the parties, which will be with difficulty eradicated, and conſequently likely to prove prejudicial to their conjugal happineſs.

It is moſt probable even if ſcripture had been ſilent about it, that mankind were created within or near the torrid zone, and were of a black complexion, as a natural conſequence of the heat of the climate; for after all the controverſy reſpecting the blackneſs of the ſpecies, I think it can only be reſolved into the heat of the Sun; and our anceſtors in theſe northern regions muſt have come originally from the ſouth; and the further they deviated from the equator, the more they improved in their colour; as appears by perſons of different climates, where there whiteneſs will be in proportion to their nearneſs to, or diſtance from the equator.

The account which Moſes gives us of the origin of mankind, is the only one that can be relied upon; for tho' there are other hiſtories who pretend to greater antiquity, yet their relations are ſo monſtrous and blended with fiction, that there is but little credit to be paid to them. And even in the account which Moſes gives of the primeval ages, we are often left in the dark reſpecting many circumſtances, and can only form conjectures about them, by comparing them with others in ſimilar ſituations, and in a ſtate of nature.

But where mankind were created, or of what antiquity they may be, is not of ſo much conſequence, as to conſider the progreſs which they have made in arts, ſciences, and refinement; and how far their diſcoveries have contributed to their happineſs, or have had a contrary tendency to ſociety.

In their primeval ſtate they probably lived without the reſtraint of any law, but that of nature; and the ground brought forth ſpontaneouſly ſuch things as they had need of. A ſenſe of property they had not any further than their preſent wants and neceſſities required. And this is the golden age, in which mankind are ſaid to have lived in the utmoſt happineſs, uncontaminated by luxury and vice, the ſubject of the poets, and the envy of ſucceeding ages. And how happy would it have been for mankind, if during their progreſs in arts and refinement, they had made an equal progreſs in virtue and happineſs; but it is too evident, from fact and experience, that their vices have kept pace with their diſcoveries; and they may be ſaid to have invented refined vices, as well as other arts and ſciences.

But as this is an evil which may be mitigated, tho' not totally removed, for it would be improper for mankind to relapſe again into a ſtate of nature, yet it is their buſineſs to guard their natural rights, as far as is conſiſtent with the ſafety of ſociety, and ſecurity of property. They ſhould often be looking back with reverence upon ancient times, as a child to its parent, and conſider the various methods by which they have been tutored and brought to their preſent perfection: but they ought alſo to conſider, that they are now of age, and able to judge for themſelves; and as parents have it in their power to correct their children with too great ſeverity, and to run into the contrary extreme, ſo alſo the governors under which mankind have been tutored, are liable to the like errors, and it is our buſineſs, as rational creatures, to exerciſe our faculties, and to conſider how far this may have been the caſe. For a line of duty is neceſſary to be drawn between governors and the governed, beyond which neither party can exceed with ſafety.

It is evident from hiſtory and philoſophy, that mankind now are and were created originally upon an equality; for it would be a ſad reflection upon the Diety to ſuppoſe the contrary. Whatever progreſs ſome nations may have made in arts, ſciences, and refinement, more than others, yet they are not original but accidental circumſtances, and ought not to invalidate the obligation we are under by the law and light of nature, to promote the welfare and happineſs of the human race, where or in what ſtate ſoever we may find them.

Our firſt natural and indefeſible right is, our exiſtence. This is man's inheritance which he ought to preſerve ſacred and inviolate, till the beſtower of it thinks fit to deprive him of it. Self-preſervation is the firſt law in nature, and no other law ought to have any obligation upon us, when it interferes with it. Natural religion is the foundation of revealed religion, and all the laws of nations ought to be conformable and ſubſervient to it; for, as the ſcripture ſays, we ought to obey God rather than man.

Let us therefore conſider mankind in that light wherein we ought chiefly to conſider them; as having all one common creator and preſerver, and it will not fail to point out our duty to him and to our fellow-creatures. It will naturally excite us to pay the tribute of acknowledgement to that Being, who created us, and ſtill preſerves us; and it will alſo induce us to practiſe that other command which, the apoſtle ſays, we have from him, that he who loves God ſhould love his brother alſo.

Under the Jewiſh œconomy the great duty of charity was very confined, and little practiſed, by that narrow-minded people. They would not allow it to extend beyond the limits of their own ſect or party; but now, under the goſpel, the attributes of the Deity are more clearly revealed, and the duty of charity more fully explained, and more widely extended. As our Saviour argues, you have heard that it hath been ſaid, thou ſhalt love thy neighbour and hate thine enemy; but I ſay unto you, love your enemies, bleſs them that curſe you, do good to them that hate you, and pray for them that deſpitefully uſe you; that ye may be the children of your Father which is in heaven, who maketh his ſun to riſe, and the rain to deſcend on the evil and the good; and recommends this as the greateſt pitch of perfection we can attain to by the words which he immediately ſubjoins; "be ye therefore perfect, even as your Father which is in heaven is perfect*." And though all the attributes of the Deity are worthy of our imitation, as far as the imperfection of our nature will permit us, yet that of univerſal benevolence, as diſplayed in the works of creation and government of the natural world, is moſt worthy of it. When we ſee univerſal nature as it were conſpiring together to promote our happineſs, can we forbear to promote the happineſs of each other? When we neglect this duty, we neglect the principal end of our creation, and when we act contrary to it, we act criminally and unnaturally, and endeavour, as much as in us lies, to counteract the ends and intentions of providence.

And I think it is evident that he alone, who gave us exiſtence, has a right to deprive us of it; and, therefore, when we lay violent hands upon ourſelves or others, we offer violence to the author of our being, who created us for his glory and the performance of religious duty, and expects us to continue in his ſervice, till he ſhall think fit to call us to a ſtate of greater glory and happineſs hereafter. And upon this ſuppoſition it may be juſtly queſtioned upon what principle of reaſon, religion, or natural juſtice our criminal laws are founded, which, for taking a little temporary property, take away the lives of our fellow-creatures, and ſend them into a ſtate of eternity; ſo diſgraceful to our reaſon, diſhonourable to God, and deſtructive to mankind.

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* Matt. v. 48.

Can the Deity poſſibly be glorified by the deſtruction and annihilation of that being, who was created in his own image, and intended to be, as it were, the pride and perfection of the whole creation? Does not ſuch an act tend much more to diſhonour him, and is it not tacitly telling him, that though every human being was created for the purpoſe of glorifying him, yet, becauſe he has taken from us a little temporary property, we will deprive him of that opportunity, and ſend him into a ſtate of eternity?

Such a conduct alſo militates againſt both the letter and ſpirit of the chriſtian religion, by abridging men of the time of working out their ſalvation, and of preparing themſelves by prayer and repentance for a ſtate of eternity; for I think a repentance, formed under condemnation and compulſive circumſtances, cannot be equal to that free, rational, and voluntary repentance, which the goſpel requires: So that revealed religion, and the law of the land, which ought to go hand in hand, are, as it were, at enmity between themſelves; and, when that is the caſe, it is eaſy to judge which of them ought to give way.

Our Saviour poſitively declares, that he came not to deſtroy men's lives, but to ſave them; and his whole conduct diſplayed a diſpoſition to relieve the oppreſſed, to heal the afflicted, and to lengthen that life which ought to be led in promoting the glory of God, and the benefit of mankind; and was ſo far from encouraging an exaction of ſtrict juſtice, that he commanded men to be merciful, as their Father which is in heaven is merciful; and to quit both coat and cloak rather than contend at law about them; and pronounces a bleſſing upon the merciful, "for they ſhall obtain mercy." And whatſoever, ſays he, "ye would that men ſhould do to you, even ſo do to them, for this is the law and the prophets."

If therefore mankind were influenced by the true temper and ſpirit of chriſtianity, they would never proceed to ſuch ſeverity for the ſake of a little temporary property, as to take away the life of a fellow-creature, and ſend him into a ſtate of eternity.

They would ſee themſelves in every human being, and, for the honour of human nature, would never wiſh to ſee another fellow-creature fall by the violent hand of an executioner; but would make the criminal's caſe their own, and extend that mercy to him, which they themſelves, in the like ſituation, would naturally expect.

Our criminal laws, like thoſe of *Draco*, at Athens, may be ſaid to be wrote in blood; as there is no proportion between the crime and the puniſhment; and as they do not anſwer the end propoſed, the numbers that fall victims to them plead ſtrongly for an alteration, that through them no more violence may be offered to the author of our being. And if no other mode of puniſhment is adopted, it is to be feared that their blood will cry ſo loudly againſt us, as to bring down the vengeance of heaven upon a guilty nation.

Who would have imagined in the primitive ages of ſociety, that taking property to the amount of twelve-pence would take away their lives? that breaking down the mound of a fiſh-pond, whereby the fiſh might be deſtroyed, would deſtroy themſelves? that cutting down a tree in a garden or orchard, would oblige them to be hanged upon a fatal tree; and that aſſociating with perſons called gypſies, would exclude them totally from ſociety, and ſend them into a ſtate of eternity, and to aſſociate with the happy or miſerable in the other world? Theſe, and many more, are certainly inſtances of too great ſeverity, and a diſgrace to the community of which we are members.

Ought a man's life to be put upon an equality with that of a fiſh? or is it worth no more than twelve-pence? This made Sir Henry Spelman complain long ago, when money was at above twice its preſent value, that, whilſt every thing elſe had riſen in its nominal value, the life of man had continually grown cheaper.

It is a maxim of reaſon and natural juſtice that we ſhould not deprive any one of more than we can reſtore; for I think a reſtitution of the property would anſwer all the ends of juſtice and ſociety; if ſo, how ſtrongly does it argue againſt the law and practice of this country, which, for taking a little temporary and tranſient property, take away the lives of our fellow-creatures, for which no property in the world can be an equivalent.

If we look back to the means by which property was originally acquired, we will find that a priority of occupancy, and bodily labour probably conſtituted a ſenſe of it. But, ſtrictly ſpeaking, there is no foundation in nature for property, and the foundation of life is laid ſo ſtrongly, that we cannot ſhake it without offering violence to the author and founder of it. In the beginning of the world we are informed by holy ſcripture,* that the all-bountiful creator gave generally to man dominion over all the earth, and over the fiſh of the ſea, and over the fowls of the air, and over every thing that moveth upon the earth. And this is the only true and ſolid foundation for man's dominion over external things. But yet this does not imply, that they ought to have an abſolute dominion over each other, ſo far as to take away their lives.

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* Gen. i.

Whoever attends our criminal courts, cannot but obſerve with the utmoſt concern, the number of criminals that are there preſented and capitally indicted for the violation of property; and humanity will lead him to wiſh that ſome other mode of puniſhment could be invented, more agreeable to reaſon, and more effectual for the prevention of crimes. For though our criminal laws are perhaps as juſtly and mercifully adminiſtered as can be expected, yet their number and ſeverity are ſtill to be lamented. For it is a melancholy truth, that, among the variety of actions which men are daily liable to commit, no leſs than a hundred and ſixty have been declared by act of parliament to be felonies without benefit of clergy, or, in other words, to be worthy of inſtant death. So dreadful a liſt only encreaſes the number of offenders.

The certainty of puniſhment is more likely to prove effectual for the prevention of crimes, than the ſeverity of it. The exceſſive ſeverity of the laws, ſays Monteſquieu*, hinders their execution. When the puniſhment ſurpaſſes all meaſure, the public will frequently, out of humanity, prefer impunity to it; and juries, through lenity, will ſometimes forget their oaths, and either acquit the guilty, or mitigate the nature of the offence; and judges, through compaſſion, will reſpite one half of the convicts, and recommend them to the royal mercy.

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* Sp. L. b. 6, c. 13.

Among ſo many chances for eſcaping, the needy and hardened offender overlooks the numbers that ſuffer, and boldly engages in ſome deſperate attempt to relieve his wants, or ſupply his vices.

If the offender is convicted, the puniſhment is generally too ſevere, and if he is acquitted, the perſon whoſe property has been taken, has no reparation; and this is too frequently the caſe, as many criminals are acquitted through the defect of evidence, and other legal formalities, though really guilty of the crime for which they were indicted.

Now, in order to remedy this inconvenience, I would have the property made good by the county; and then let the culprit be obliged to work at ſome manufactory of general utility, ſuch as that of woollen cloth, or the like, till he has repaid the money. This, I think, would be reſtoring property to the injured, employing the indigent, and anſwering all the ends of juſtice and ſociety.

And this mode of puniſhment was ſuggeſted by Sir *Thomas Moor*, and the Marquis of *Beccaria*, above two centuries ago, who very ſenſibly propoſed that kind of corporal puniſhment which approaches neareſt to a pecuniary ſatisfaction, viz. a temporary impriſonment, with an obligation to labour, firſt for the party robbed, and afterwards for the public, in order to oblige the offender to repair, by his manual induſtry and diligence, the depredations he has committed upon private property and public order.

The money might be paid by the treaſurer of the county, under proper vouchers, and the manufactory might be ſubject to the regulation and inſpection of the juſtices at every quarter-ſeſſions; or there might be perſons appointed to conduct it. The price of labour per day ought to be leſs than that of other day-labourers, and their diet poorer, in order to deter offenders from the commiſſion of crimes.

The only objection, I think, againſt this plan is, that it would be injurious to other eſtabliſhed manufactories in the kingdom; but I do not think it would. For ſuppoſe there were, upon an average, twenty perſons employed by every county, they would only amount to about eight hundred; which number would not be ſo conſiderable, as to prove injurious to others; and what by home conſumption and exportation, I think it would hardly be perceived.

It would alſo be neceſſary to conſtitute the taking of property to a certain amount, a tranſportable offence; and then others, for inferior ſums, would be diſcharging as they worked it out. This would prevent the priſons and workhouſes from being over crowded with offenders.

If perſons commit crimes very prejudicial to ſociety, in the name of God let them be ſent to another part of the world, where they may have an opportunity of returning to their duty, and becoming uſeful members of ſociety; and alſo of preparing themſelves, by prayer and repentance, for a ſtate of eternity. This is conformable to, and ſtrictly within the law of nature and revelation; but when their lives are once taken away, they can never be reſtored, and then they are totally loſt to God and ſociety.

When I was curate in London, I was frequently called upon to perform the painful and diſagreeable taſk of reading the funeral ſervice over executed criminals; and how could I conſcientiouſly join in that part of it, which ſays, that "it had pleaſed almighty God of his great mercy to take unto himſelf the ſoul of a dear departed brother," when the ſanguinary laws of his own country, and the executioner had ſent him thither? Surely this was a mere mockery of the Deity, the language of the lips only, and not of the heart.

And I could not help commiſerating the caſe of one woman in particular, above all the reſt, who called herſelf the wife of the deceaſed, and whoſe affection for her huſband appeared to extend even beyond both the gallows and the grave. Immediately after the interment, ſhe was aſked by a bye-ſtander, what her huſband was executed for, and ſhe replied, with a deep ſigh, "he was hanged for nothing!" Tho' I did not altogether credit the woman's aſſertion, yet I thought it was probably ſome ſmall injury, which, if he had lived, he might have repaired, and which his execution totally precluded. In ſhort, natural and revealed religion, the cauſe of humanity, conſanguinity and affinity, jointly and ſeverally condemn the policy and ſeverity of thoſe laws, which, for taking a ſhilling's worth of property, cut perſons off from all civil and religious privileges, and ſend them into a ſtate of eternity.

Theft, by the Jewiſh law, was only puniſhed with a pecuniary fine and ſatisfaction to the party injured. And in the civil law the puniſhment was not capital, till ſome very late conſtitutions. From theſe examples, as well as the reaſon and nature of the thing, ſays Judge Blackſtone, many learned and ſcrupulous men have queſtioned the propriety and even the legality of inflicting capital puniſhments for poſitive offences, offences againſt the municipal laws only, and not againſt the Deity. To ſhed the blood of our fellow-creatures, ſays he, is a matter that requires the greateſt deliberation, and the fulleſt conviction of our own authority; for life is the immediate gift of God to man, which neither he can reſign, nor can it be taken from him, unleſs by the command and permiſſion of him that gave it, either expreſsly revealed, or collected from the laws of nature or ſociety, by clear and indubitable demonſtration.

Every humane legiſlator therefore, who thinks ſeriouſly, will be very cautious of eſtabliſhing laws that inflict the penalty of death, eſpecially for ſlight offences, ſuch as are merely poſitive, or *malum prohibitum* only, and not *malum in ſe*. He will conſider that the guilt, if any, will lie at his door, who miſ-interprets the extent of his authority and not at the door of the offender, who is bound to receive the interpretations that are given by the ſovereign power. He will alſo expect a better reaſon for ſo doing than that looſe one generally given, that it is found by former experience, that no lighter puniſhment will be effectual. For was the vaſt territory of all the Ruſſias worſe regulated under the late Empreſs Elizabeth, than under her more ſanguinary predeceſſors? Is it now, under *Catharine the Second*, leſs civilized, leſs ſocial, or leſs ſecure? And yet we are aſſured that neither of theſe illuſtrious princeſſes have, throughout their whole adminiſtration, inflicted the penalty of death; and the latter has, upon full perſuaſion of its being uſeleſs, nay even pernicious, given orders for aboliſhing it entirely throughout her extenſive dominions*.

It is impolitic and unjuſt to apply the ſame puniſhment to crimes of different malignity: And a number of ſanguinary laws (beſides the doubt that may be entertained concerning the right of making them) do likewiſe prove a manifeſt defect, either in the wiſdom of the legiſlative, or the ſtrength of the executive power. It is a kind of quackery in government, and argues a want of ſolid ſkill, to apply the ſame univerſal remedy, the *ultimum ſupplicium*, to every caſe of difficulty. This is the opinion of the learned judge.

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* Grand inſtructions for framing a new code of laws for the Ruſſian empire.

Our criminal laws are become ſo numerous, that it is impoſſible for the ſubjects to underſtand them. They neither have money to purchaſe them, nor leiſure to read them. And if they were to read them, they are often ſo intricate, that they probably would not underſtand them; for even the judges themſelves, who have to adminiſter them, often diſagree about the interpretation and conſtruction of them. How eaſily therefore may a ſet of illiterate perſons fall victims to them through ignorance or inattention? And this is an inconvenience certainly worthy of the moſt ſerious conſideration.

Beſides, a number of ſanguinary laws are a bad ſymptom of the diſtemper of any ſtate; or at leaſt of its weak conſtitution. The laws of the Roman *Decemviri* were full of cruel puniſhments. The *Portian* law, which exempted all citizens from the ſentence of death, ſilently abrogated them all. In this period the republic flouriſhed; under the Emperors ſeverer puniſhments were revived, and then the empire fell.

The chief authorities, I think, for warranting capital puniſhments, are Puffendorf and Sir Matthew Hale. But is Sir Matthew Hale to be ſet up as a pope, and his opinion to be deemed infallible? He ſays that "when offences grow enormous, frequent and dangerous to a kingdom or ſtate, deſtructive or highly pernicious to civil ſociety, and to the great danger of the kingdom or its inhabitants, even death itſelf is to be annexed to laws, in many caſes, by the prudence of law-givers." Sir Matthew Hale, from his official capacity, was inclined to preach up this doctrine. He was a judge, and therefore naturally inclined to increaſe the prerogative of the crown, as the judges were not then ſo independent upon the crown as they now are. But can the taking of life be deemed an act of prudence? is it not the greateſt prudence in the world to preſerve it? and does not univerſal nature conſpire to afford us the means of exiſtence? Therefore we may conclude, that we act criminally and unnaturally when we deſtroy it; and I cannot conceive how inferior offences can become ſo enormous, as to be dangerous to a ſtate. And as this *ſtate engine* of capital puniſhments has been ſo long made uſe of to no purpoſe, and found ineffectual for the prevention of crimes, which every wiſe legiſlator ought chiefly to conſider, it is a ſtrong reaſon why it ſhould be laid aſide, and another invented differently conſtructed, and better calculated to anſwer the end propoſed.

As our happineſs in this world does not conſiſt in the enjoyment of property, neither ought it to be the means of fixing our fate and determining our happineſs or miſery in the next. It has been urged in juſtification of capital puniſhments, that criminals only ſuffer by the laws which they have conſented to, either by themſelves or repreſentatives. But it might be aſked, are none to be amenable to the laws of their country, but ſuch as vote for members of parliament? If this plea was allowed, I fear the greateſt number of criminals would eſcape puniſhment. If every houſeholder, who has life and property to protect, were allowed to vote for a member of parliament, they might then, with more propriety, be ſaid to conſent to the laws of their country; but, in the preſent partial mode of repreſentation, the aſſertion does not apply to them. And if they were even ſo repreſented, yet few of them are capable of judging of the wiſdom, or good or evil tendency of acts of parliament, till they feel the effects of them in their conſequences.

In caſe of murder, it looks like natural juſtice, that he who deprives a fellow-creature of his exiſtence, and ſends him into a ſtate of eternity, ought to be put into the ſame ſituation himſelf. And this is conſonant to the precept delivered to Noah, " Whoſo ſheddeth man's blood, by man ſhall his blood be ſhed." And even this may be a retaliation which is, perhaps, diſcountenanced by the chriſtian religion; but in all other inferior offences I think a reſtitution of the property, or, at moſt, an excluſion from ſociety, would anſwer all the ends of juſtice, and the ſecurity of property. Any thing beyond this, can only be done under a pretence of revenging the wrongs of the Deity; and, as Baron Monteſquieu obſerves, it is better to leave the Deity to revenge his own wrongs, than to exceed the extent of your warrant, under a pretence of revenging them for him.*

"In things," ſays he, "that prejudice the tranquillity and ſecurity of the ſtate, ſecret actions are ſubject to human juriſdictions: but in thoſe which offend the Deity only, where there is no public action, there can be no criminal matter; the whole paſſes between man and God, who knows the meaſure and time of his vengeance."

"We muſt," ſays he, "honour the Deity, and leave him to avenge his own cauſe. In effect, were we to be directed by ſuch a notion, where would be the end of puniſhments? If human laws were to avenge the cauſe of an infinite being, they will be directed by his infinity, and not by the ignorance and caprice of man."

Under this pretence, the bigotry of popery has taken the lives of thouſands; and even the idea of chaſtity was once carried to ſuch a degree a degree in this kingdom, that adultery and fornication were conſtituted capital crimes. And it is alſo worthy of obſervation, that many perſons have been executed as criminals in this kingdom, for crimes which could not exiſt but in weak and over-credulous minds. The ſanguinary laws againſt gypſies, ſorcerers, and fortune-tellers, and thoſe that have fallen victims to them, are ſhocking to human nature. The law ſays, That if the Egyptians remained one month in this kingdom; or if any perſon being fourteen years old, (whether natural born ſubject or ſtranger) which hath been ſeen or found in the fellowſhip of ſuch Egyptians; or which hath diſguiſed him or herſelf like them, ſhall remain in the ſame one month at one or ſeveral times, it is *felony* without benefit of clergy. And Sir *Matthew Hale* informs us, That at one Suffolk aſſizes no leſs than thirteen gypſies were executed upon theſe ſtatutes, a few years before the reformation.

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* Spirit L. vol. 1. b. 12, c. 4.

Our fore-fathers, ſays Judge Blackſtone, were ſtronger believers of the exiſtence of theſe crimes, when they enacted by Stat. Hen. 8, c. 8. all witchcraft and ſorcery to be felony without benefit of clergy. And again, by Stat. 1. Jac. 1. c. 12. that all perſons invoking any evil ſpirit, or conſulting, covenanting with, entertaining, employing, feeding, or rewarding any evil ſpirit; or taking up dead bodies from their graves to be uſed in any witch-craft, ſorcery, charm or enchantment; or killing, or otherwiſe hurting any perſon by ſuch infernal arts, ſhould be guilty of felony without benefit of clergy, and ſuffer death. And if any perſon ſhould by ſorcery endeavour to diſcover ſtolen goods, or to provoke unlawful love, or to hurt any man or beaſt (though the ſame were not effected) he or ſhe ſhould ſuffer impriſonment and pillory for the firſt offence, and death for the ſecond.

Theſe acts, ſays he, continued in force till lately, to the terror of all the ancient females in the kingdom; and many poor wretches were ſacrificed thereby, to the prejudice of their neighbours, and their own illuſions; not a few having, by ſome means or other, confeſſed the fact at the gallows. But all executions for this dubious crime are now at an end. Our legiſlature, at length, having followed the wiſe example of Lewis the XIV in France, who thought proper, by an edict, to reſtrain the tribunals of juſtice, from receiving informations againſt witchcraft. And accordingly it is enacted by ſtat. 9. George II. c. 5, that no proſecution ſhall for the future be carried on againſt perſons for conjuration, witchcraft, ſorcery, or enchantment. But the miſdemeanor of ſuch perſons pretending to uſe witchcraft, tell fortunes, or diſcover ſtolen goods, by ſkill in the occult ſciences, is ſtill deſervedly puniſhed with a year's impriſonment, and ſtanding four times in the pillory.

It is true there is ſome mention made of witchcraft in ſcripture, and St. Paul joins it in a large catalogue of other vices very prejudicial to ſociety, as hatred, emulations, murders, drunkenneſs, &c. and no doubt but there were perſons in thoſe times as well as in theſe, who, by the power of natural cauſes, performed ſtrange and wonderful things; but to ſuppoſe that they were the effect of ſuper-natural powers, would be a ſad reflection upon enlightened minds. Our laws both before and ſince the conqueſt, have ranked the crime of witchcraft in the ſame claſs with hereſy, and condemned both to the flames; and what our Saviour ſaid to his diſciples, when they deſired leave to command fire to conſume the Samaritans, will apply to them; that he came not to deſtroy men's lives, but to ſave them. And the preſident Monteſquieu* lays it down as a very important maxim, that we ſhould be very circumſpect in the proſecution of magic and hereſy; becauſe the moſt unexceptionable conduct, the pureſt morals, and the conſtant practice of every duty in life, are not a ſufficient ſecurity againſt crimes like theſe. And the ridiculous ſtories that are related, and the many impoſtures and deluſions that have been diſcovered in all ages, are enough to aboliſh all faith in ſuch a dubious crime.

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* Sp. L. b. 12. c. 5.

Egypt, the mother and inventreſs of other occult ſciences, was alſo the inventreſs of the pretended art of necromancy, or of raiſing up the dead in order to be informed of future events; and it ſoon ſpread itſelf over other countries: for as it undertook to gratify man's inquiſitive and ſuperſtitious curioſity, it could not long want abettors. And from thence the Iſraelites brought along with them no ſmall inclination to it; and the injunction of the law of Moſes is very ſtrong againſt it*. "When thou art come into the land which the Lord thy God giveth thee, thou ſhalt not do after the abomination of thoſe nations. There ſhall not be found among you any that uſeth divination, or an obſerver of times, or an enchanter, or a witch, or a charmer, or a conſulter with familiar ſpirits, or a wizard, or a necromancer."

But that which is here rendered familiar ſpirit, the ſeptuagint call the ſpirit of *Python*; and in the Hebrew it is the ſpirit of *aob*; and *aob* in the original, ſignifies a bottle, or any thing tumified or blown up and expanded; ſo that the ſpirit of Python was only in compliance with the heathen notions of the times.

Python was a ſerpent, ſaid to have been produced from the mud after the flood, and ſhot by Apollo; and as ſerpents are the moſt inſinuating animals, they probably imagined, that the ſpirit of it inſinuated itſelf into their bellies, and aſcended to the bottom of their ſtomach, from whence they uttered their predictions; and for which reaſon ſuch perſons were called *ventriloqui*, or perſons that ſpeak out of their bellies; or perhaps they might be troubled with a diſorder ariſing from drinking ſpirits out of a bottle, which was then become too familiar, and prejudicial to ſociety; and as the bottles were then made of leather, they exactly agree with the ſignification of the original word.

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* Deut. xviii, 9.

The only part of ſcripture which ſeems moſt ſtrongly to favour the notion of witchcraft, is that of Saul and the witch of Endor. But I think on a thorough examination it will be found to have been related only in compliance with the miſtaken notions of the times: For it is not to be ſuppoſed, that if Saul had been aſſured of a defeat, and of the loſs of his life, that he would have run the riſque of an engagement, unleſs he had believed in a doctrine of fate or neceſſity.

The pretended witch, would eaſily gueſs from the ſuperiority of the Philiſtian army, that the battle would prove fatal to him; and as to her pretending to bring up the ghoſt of Samuel, it was probably the perſon with whom ſhe was in confederacy; and her knowing that it was Saul, might be obtained from the men that accompanied him, and alſo the ſituation of the armies; and they would be ſure to adviſe her to diſſuade him from an engagement, leſt they themſelves ſhould fall therein, as the combat in all human probability was likely to be ſo unequal.

What ſtate the ſouls of deceaſed perſons remain in, from their ſeparation to the reſurrection is rather uncertain, as both natural and revealed religion leave us much in the dark reſpecting it. But the ſouls of the righteous are at leaſt in a ſtate of reſt, and we may be aſſured, that it is not in the power of any human being to diſturb them.

Nothing can be more prejudicial to ſociety than the belief of a doctrine of fate or neceſſity. It is contrary to the wiſdom and goodneſs of the Deity to ſuppoſe, that he will ever empower perſons to foretell that event, which when known, would have a tendency to afflict the minds of his creatures with the moſt poignant miſery, or to render them ſupine and careleſs through an abſolute certainty of happineſs, inſtead of that moral conditional one which religion affords. It is inconſiſtent with men's free agency, renders religion unneceſſary, and which way ſoever conſidered, is big with abſurdity.

It muſt be allowed that the Deity undoubtedly foreſees our actions even before we have exiſtence; but we muſt not imagine that it puts the leaſt conſtraint upon them. For we muſt ſuppoſe that his fore-knowledge is of ſuch infinite perfection as to be conſiſtent with man's free agency, otherwiſe it would lead us into the greateſt abſurdity. For if we imagine that his omniſcience influences either our volition or action, then there is an end of our freedom. But the mental and corporal powers that we feel ourſelves poſſeſſed of, muſt convince us of the freedom, both of our wills and actions.

It is true the ſcripture informs us, that God will give his holy ſpirit to them that aſk him, to influence their wills, and to put into their minds good deſires; but this implies the means of prayer, which is a kind of co-operating cauſe, and muſt originate with ourſelves. It is a light that will ſhine upon us if we remove the obſtructions to it, but yet if we pleaſe we may ſhut our eyes and walk in darkneſs rather than light, like the perſon who refuſes to open his windows to let in the rays of the ſun. And even our prayers may be rejected on many accounts. If they are not accompanied with ſuch qualifications as are neceſſary to render them acceptable to the Deity; or if we pray for what he ſees would not be expedient for us, we may be aſſured that they will be rejected.

I have heard it related as a fact, that a perſon of a credulous diſpoſition was informed by a fortune-teller that he was to be hanged; and it affected his mind ſo ſtrongly, that he fell into a ſtate of inſanity. And in one of his lucid intervals he ſaid, he was informed he was to be hanged, but he was determined to diſappoint them, for he would be drowned; and accordingly took that method of ending his life. If this was true, there could not be a ſtronger proof of the fallibility of fortune-telling, and of the impoſſibility of any irreſiſtible agency, and evidently evinces that we are free, rational, and conſequently accountable creatures. And in vain therefore do men plead an irreſiſtible fate in extenuation of their crimes.

A doctrine of fate is not adapted to finite capacities, and we may be aſſured that the author of our being will never communicate any knowledge to us which exceeds our faculties, nor inform us of any thing, which when known would have a greater tendency to render us more miſerable than happy. It is the happineſs of his creatures that he intends in all his diſpenſations; and declares that he delighteth not in the death of a ſinner, but rather that he would return and be ſaved. In ſhort, a doctrine of fate or neceſſity with an abſolute certainty of it, would incline us to terminate our exiſtence, in order to anticipate our happineſs; and if we were to be miſerable, how inſupportable would the conſideration be that it muſt take place! And this was probably verified in the conduct of Saul; for if he gave credit to the witch of Endor and the pretended ghoſt of Samuel, that he was to be with him in a ſtate of happineſs, it perhaps induced him to lay violent hands upon himſelf, in the manner deſcribed in ſcripture.

When God ſets laws to inanimate beings he executes them himſelf, and it is not in their power to act otherwiſe; but man's obedience is free and voluntary, and entirely in his own power whether he will obey or not; and therefore there can be no ſuch thing as a doctrine of fate or neceſſity: there is no foundation for it either in nature, reaſon, or religion; for all the precepts of religion appeal to us as free and rational creatures, and if we are not ſo, it is the greateſt abſurdity to require the performance of that which we have no power to perform. This would be charging the Deity with inconſiſtency, and making him the author of ſin.

The Egyptians, undoubtedly, made great diſcoveries in the ſcience of aſtronomy, and the motions of the cœleſtial bodies, the knowledge of which leads us to admire and adore the author of them, and to praiſe him for his wiſdom and goodneſs as diſplayed to us in the creation and government of the natural world, who, as the Pſalmiſt ſays, by his excellent wiſdom made the heavens, telleth the number of the ſtars, and calleth them by their names; but we are not to ſuppoſe, that they can have any influence upon the minds of free and rational creatures; and therefore no knowledge relating to them, can poſſibly enable men to foretel what will come to paſs in the moral world. They may, perhaps, by their attractive qualities have ſome influence upon the air, and conſequently upon the weather; but it is impoſſible for them to have any upon the volition of free and rational creatures, and therefore any pretence to tell fortunes by them, muſt be groundleſs and ridiculous.

I ſhall now endeavour to inveſtigate another prevalent opinion, which has obtained credit both by the learned and the ignorant, I mean the belief of Ghoſts and Apparitions.

Nothing can affect the human mind with greater terror, than the dread of an interview with the ſouls of deceaſed perſons; therefore it is worthy of enquiry, what foundation there is for ſuch a belief either in reaſon or religion. And what I have already ſaid with reſpect to the ghoſt of Samuel, may ſuffice in this caſe, that we are not clearly informed either by natural or revealed religion, what ſtate the ſoul is in from the time of it's ſeparation to the reſurrection. But we are informed, that the ſouls of the righteous reſt from their labours; they are at leaſt in a ſtate of reſt, though, perhaps, not of complete happineſs; which is only to be perfected at the reſurrection. But it is not ſo with the wicked, for the ſcripture ſays, there is no peace to them, either in this world or in the next.

That there are tokens given at the approaching diſſolution of dying perſons, by the flight of birds, &c. is confirmed by numberleſs inſtances, and atteſted by ſuch a cloud of witneſs, as will be too ſtrong for all reaſoning againſt it. And they are generally deemed an omen that the ſoul of the dying perſon will be received into a ſtate of happineſs. Such tokens are probably ſome of the holy angels, who, as the ſcripture informs us,* are miniſtering ſpirits, ſent forth to miniſter for them who ſhall be heirs of ſalvation. And this is analagous to another part of ſcripture, where the ſpirit deſcended upon our Saviour in the form of a dove, accompanied with a declaration from heaven, teſtifying, that God in him was well pleaſed.†

There are many other inſtances of a particular providence, which I think every one in the courſe of their lives might have obſerved; ſuch as two perſons aſking the ſame queſtions in company at the ſame moment and juncture of time, and which nothing that had been ſaid before, nor no ſimilar train of thinking could poſſibly lead them to: And alſo the inſtance of perſons dreaming of what comes to paſs either in reality or in ſimilarity; and which is at leaſt an evident demonſtration of a ſuperintending power. But theſe inſtances are very rare, and performed in ſuch a ſubtle manner, as not to be obſervable but by the niceſt obſerver, and ſeldom can be underſtood till after the fact.

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* Heb. i. 14.

† Luke iii. 22.

Though I am not too credulous of the reports of others, with regard to theſe tokens, yet I myſelf was once witneſs to an inſtance of this kind, and which was alſo performed in the midſt of a public congregation, though I do not know whether any of them obſerved it or not. Whilſt I was officiating at Brampton, near Northampton, for a clergyman who was lying at the point of death, a ſmall bird came and placed itſelf upon the book, and interrupted me in the ſervice for a conſiderable time. I could not help looking upon it as a token of the clergyman's approaching diſſolution, and that there would be an interruption of miniſters in that church; and which really came to paſs, as the clergyman died in a few days after.

But we are not to ſuppoſe that the Deity will ever interfere ſo far as to reverſe his general laws to anſwer particular purpoſes, unleſs it be to make a ſtanding revelation of his will; and when that end is accompliſhed, he will then withdraw his ſupernatural powers, and leave men to walk by the rules of it; but to continue it and, at the ſame time, a race of fortune-tellers, would be a contradiction in terms. The only probable reaſon for ſuppoſing the appearance of deceaſed perſons is, in regard to ſuch as lay violent hands upon themſelves. It is therefore worthy of enquiry, by what principle of reaſon or religion perſons guilty of ſuicide are actuated.

But when this act is committed by perſons whoſe mental faculties are diſordered, it cannot be reduced to any rational principle. For reaſon, which ought to be the director of volition, is depraved: They have only ſo much ſenſibility remaining, as to make them ſenſible that they are miſerable; and they apply the miſtaken remedy of terminating their exiſtence, in hopes by that means to terminate their miſery, without any conſideration or proſpect of a future ſtate. As to others, whoſe reaſon is not depraved, and yet terminate their being in cool blood, their caſe is very different. They may be ranked among the duelliſts; for they, as it were, fight a duel with their creator, and rebel againſt the author of their being. They are generally ſuch as have been reduced from opulent to indigent circumſtances, or have met with ſome other misfortunes, and they put a period to their exiſtence rather than ſubmit to a ſtate of poverty, and leſt the world ſhould be acquainted with their condition. This crime, like that of the duelliſts, originates in a miſtaken notion of honour. If we examine into the cauſe of duelling, we will find that it is generally to decide an affair of honour. Their raſhneſs does not allow them to conſider, that there is no foundation in nature for honour; and if we become inſenſible of the real honour of exiſting, and proceed upon a falſe principle to decide an imaginary and miſtaken point of honour, at the hazard of our lives, we do that which has a tendency, if poſſible, to diſhonour the Deity, by deſtroying that being which was created for the purpoſe of honouring and glorifying him, and he undoubtedly expects us to continue in his ſervice, till he ſhall think fit to releaſe us. But the duelliſt and ſuicide, in fact, deſert his ſervice, and proceed to releaſe themſelves; and therefore it would be but juſtice in the Deity to deny that reſt to their ſouls, which ſuch as are faithful unto death will undoubtedly find. But though, perhaps, he may in his infinite wiſdom think fit to ſend them back to the place from whence they came, to remain till ſuch time as he ſhall think proper to admit them to another; yet it is not to be ſuppoſed that they can have any power to hurt or offend the righteous. Neither can the fallen angels have any authority againſt us, but by the permiſſion of the Supreme Being.

He who pervades all nature, and guides the cœleſtial bodies in their courſes, and prevents the jarring elements from injuring us, will alſo, if we are faithful to him, preſerve us from the injury of ghoſts and evil ſpirits; for if we have not forfeited his protection, we may take courage and ſay, though we even walk through the valley and ſhadow of death, we will fear no evil. But if we diſobey the Deity by acting contrary to his will, as it is diſcovered to us either by the light of nature or revelation, we will then forfeit his protection; and in that caſe, conſcience, with it's numerous terrors, will be let looſe upon us, and we will perhaps imagine the preſence of a thouſand ghoſts and apparitions, which exiſt only in our own guilty mind, and which the virtuous and innocent cannot diſcern. This may be a mode of puniſhment which the Deity, for wiſe reaſons, may ſuffer to take place, by allowing ſinners to inflict puniſhment upon themſelves, and by cauſing their conſcience, which ought to be their greateſt comfort, to become their greateſt torment. But whoever exerciſe themſelves ſo as to have a conſcience void of offence, may bid defiance to ghoſts and apparitions, and even to the devil and his angels. They will have good angels for their guardians which will protect them here, and will conduct them to glory hereafter. But I think the relations of the appearance of apparitions are much exaggerated. The belief of them probably found a more welcome reception in the time of Popiſh ignorance and ſuperſtition; and the adoration which they paid to the images of their pretended ſaints, as well as to their relicts, impreſſed their minds ſo ſtrongly, that the tranſition was eaſy to ſuppoſe their reality.

When the miſtaken notions of religion have ſo far gained an aſcendency in a ſtate, as to threaten both the ſovereign and ſubjects with bulls and anathemas, and with being cut off from all civil and religious privileges, it has a direct tendency to conſtitute an abſolute monarchy. The hiſtory of France furniſhes us with a ſtriking inſtance of this, and alſo of a ſad perverſion of that religion which ought to be pure and peaceable, and full of mercy and good fruits, when two of it's kings, viz. Henry the III and IV, fell by the hands of Monks for favouring the proteſtants; and the hand which ought to have been uplifted to heaven to implore it's mercy upon mankind, was changed into the bloody hand of the regicide. The people of that country after many ſtruggles for liberty, were at laſt, by Cardinal Richlieu and the Pope, entirely overpowered, and deprived of both their civil and religious liberties, and their King rendered an abſolute Monarque. And, I think, it is evident from hiſtory and experience, that all abſolute monarchies muſt have originated in weakneſs or ignorance on the one part, and ambition on the other; and the more men's minds become enlightened by reaſon, hiſtory, and philoſophy, the more they will endeavour after civil and religious liberty.

Of all the governments in the world, that of a deſpotical one is the moſt dangerous to the ſubject. Is it reaſonable that the lives and and properties of thouſands ſhould be entirely at the will and diſpoſal of one man? It is aſpiring to an authority with the Deity. It is the property of the Deity only to exerciſe juſtice in perfection; and we may truſt ourſelves in his hand, as in the hand of a faithful creator, and merciful preſerver; but man is ſubject to paſſion, prejudice, ignorance and vice; and therefore ought not to be inveſted with any authority, in the execution of which he might have it in his power to become the moſt exorbitant creature in nature. In Monarchial governments, either ſimple or mixt, the ſafety of the prince certainly conſiſts in the happineſs of all the ſubjects, and it is the intereſt of the ariſtocratical part to keep the lower claſs of people, at leaſt, out of the way of neceſſity. For, as neceſſity has no law, when they find themſelves oppreſſed and deſtitute of the means of exiſtence, they will be in danger, by the ſuperiority of their number, of overturning the conſtitution. This was the caſe in France, when to their other oppreſſions, they were threatened with famine; which rouſed the ſpirit of the nation to ſuch a degree, that they ſtruck an important blow, and changed the conſtitution from an abſolute Monarchy to a Democracy, to the aſtoniſhment of all the world. There is one circumſtance attending it, which appears to be generally overlooked. It has opened a way for a reformation in religion, which every well-wiſher to the proteſtant cauſe, ought to anticipate and rejoice at.

What was it that occaſioned the fall of the Roman empire but oppreſſion? After the expulſion of their kings, the ariſtocracy aſſumed ſuch an oppreſſive authority, that the people retired from the city, and refuſed to return, unleſs they were allowed *tribunes* to be a check upon the ſenate, ſomewhat ſimilar to our houſe of commons. This brought on ſuch a ſcene of inteſtine broils, maſſacres, and diſcords, as at laſt totally ruined that noble and magnificent empire. There is a kind of criſis in every government. When abuſes and oppreſſions arrive at a certain height, then providence generally interferes in ſome ſhape or other, ſo as to bring about a change. It is alſo conſonant to reaſon and natural juſtice to ſuppoſe, that providence will be moſt propitious to that nation, where there is leaſt violence offered to nature; for the author of nature will be ſure to revenge his wrongs in ſome ſhape or other. And if nature is oppreſſed in one reſpect, ſhe will often retaliate in another. And, I think, we may diſcern ſomething like this in the conduct of America, to which many perſons were ſent on account of the ſanguinary laws of this country, and we find them afterwards retaliating the injury upon the mother country, by an expenſive war, which coſt England much more money than would have maintained a thouſand times as many as were expelled their country through neceſſity. The hand of providence, I think, was in it; for we are informed by ſcripture, that ſtates and kingdoms are more eſpecially under the inſpection of the Deity, and that he puts down one and ſetteth up another, as it ſeemeth beſt to his godly wiſdom.

In courſe of time abuſes are apt to gain ground in every government; and it is as neceſſary to correct and remove them, as it is to take medicines to correct an ill habit in the human body; and that government muſt be deemed the wiſeſt, which prudently purges out the noxious humour, before the body politic is reduced to a ſtate of ſickneſs. The end of every government is the happineſs of the ſubject, and when that end is anſwered, it will not fail to add to it's ſtability and ſecurity. We may obſerve, that when abuſes gain ſanction, either into the civil or religious department of a ſtate, it too often requires ſtrong convulſions to rectify them. Perhaps, Poland is the only exception, where the ſovereign has granted to the ſubject a voluntary participation in the government. And it is curious to obſerve, the progreſs of civil and religious liberty, even in this iſland, and how the people, by degrees, emancipated themſelves from a ſtate of ſlavery.

The Feudal Syſtem, which originated among the barbarous nations on the continent, and was introduced into France when it was conquered by them after the decline and fall of the Roman empire, was alſo introduced, indeed thoroughly eſtabliſhed, in this iſland, by William the Conqueror. And it was once carried to ſuch a degree in Scotland, that the lord of the feud claimed the firſt night's lodging with the vaſſal's wife. And we find the Conqueror in the latter part

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of his life, cauſing a ſurvey of all the lands in England to be made, and taking an account of all the *villains*, or ſlaves, upon each eſtate, together with the live ſtock, which was recorded in a book called *doom's-day book*; from whence it appears, that all the lands in England were then in the hands of Normans, and the Engliſh only tenants at will, or vaſſals to them, and ranked with the cattle or beaſts of the field. And ſo they continued till the time of Henry I, who, to ingratiate himſelf with his Engliſh ſubjects, granted them the uſe of fire and candle in the night. He alſo granted other conceſſions to the Norman barons, whereby their lives and fortunes were ſecured to them; for till then, the kingdom had been governed by the ſole will and pleaſure of the prince; both life and fortune ſeem to have been in the power of the crown. And this laid a foundation for the ſtatute of MAGNA CHARTA, which was afterwards extorted by the barons from King John, and is ſtill looked upon as the foundation and bulwark of Engliſh liberty.

But ſtill the chains of popery remained to be broken, which were become ſo ſtrong, as to be able to bind our kings. This remained to be accompliſhed by Henry VIII; and tho' the errors of popery had been pointed out and wrote againſt before his time, and even Henry himſelf had wrote a book againſt Luther, in favour of popery, for which he obtained the title of defender of the faith; yet he afterwards thought proper to ſhake off the popiſh yoke. And though it might originate in impure motives, yet it affords us a remarkable inſtance how the Almighty often brings good out of evil, for the deliverance of the faithful; for to it we are indebted for the reformation, and the profeſſion of true religion, uncorrupted by ignorance and ſuperſtition.

Another reaſon for altering our criminal laws is, the ſmall regard which is now paid to an oath, the only barrier by them between life and death; and which has often been violated by the needy and unprincipled, and even by the opulent. How ſhocking is the conſideration, that many perſons have fallen victims to the ſanguinary laws of this country by falſe teſtimony, and whoſe innocence has evidently appeared after their execution! And if ſuch monſters have been found already, ſuch may probably be found again; for it is too melancholy an obſervation, that mankind are not now more influenced by virtue and religion than they have been; and the numbers that have lately been convicted of perjury, I think, ought to convince us that an oath is now become too feeble to withſtand the depravity of human nature.

In the common affairs of life we may hear perſons making uſe of oaths and imprecations upon light and trivial occaſions, and often without any occaſion, and ſometimes to confirm an abſolute falſity; therefore, I think, when perſons are ſo deſtitute of probity and common honeſty, and ſo notoriouſly guilty of lying, as not to be worthy of credit in the common affairs of life, their oath ought not to be admitted upon life and death. In the primitive ages of ſociety, they undoubtedly made uſe of oaths with regard to property, and for the performance of promiſes; but I do not think they ever admitted them upon life and death in the manner that we do. And St. Paul ſays, an oath for confirmation ſhall be an end of all ſtrife; yet I think his meaning could not be, that it ſhould be the means of putting an end to life itſelf. Perſons notoriouſly guilty of lying, cannot but be ſenſible that the omniſcient Being, who created them, is acquainted with it, and will puniſh them for it; and there is no other conſideration to reſtrain them from violating their conſcience by ſolemn or profane ſwearing, though it muſt be owned, that wilful and corrupt perjury, is a crime of greater malignity. Therefore, whoever wiſhes to be deemed a worthy member of ſociety, ought to pay as much regard to his word as his oath, and ſhould guard againſt lying and profane ſwearing, otherwiſe he cannot, with propriety, be allowed to ſwear ſolemnly for the ends of juſtice and ſociety. And I cannot help thinking, but that, both in our civil and criminal courts, too little regard is paid to an oath, by being adminiſtered as a matter of form and courſe; and alſo, that too little enquiry is made into the character of perſons produced as evidence.

Another obſervation worthy of conſideration is, that no reward ought to be given for the conviction of offenders. There ought only to be a reſtitution of the property, and reaſonable expences for proſecution. For there are too many who will violate their oath and every thing that is ſacred, for the ſake of a reward. Therefore, there ought not to be any temptation put in the way of ſuch impious monſters. Neither ought any to be capitally convicted upon the teſtimony of one witneſs only; but according to the injunction of the law of Moſes, " at the mouth of two or three witneſſes ſhall he that is worthy of death be put to death; but at the mouth of one witneſs he ſhall not be put to death."*

Having now conſidered criminal executions, both in a civil and religious point of view, and ſhewn that no ſenſe of property ought to be a means of taking the lives of our fellow-creatures; it is neceſſary to take notice of a mode of puniſhment which has lately been ſuggeſted, and which partly agrees with my plan; I mean that of ſolitary cells. But I think they ought alſo to be under an obligation to labour. For as they muſt, during their confinement, be ſupplied with the neceſſaries of life, unleſs they are compelled to earn them, they muſt, of courſe, be a loſs to the community. And, perhaps, their confinement under an obligation to labour, would have a greater tendency to deter them from the commiſſion of crimes, than ſeverer puniſhments. And, I hope, all nations will in time become ſo enlightened as to ſee the propriety and neceſſity of exploding capital puniſhments in moſt caſes, and of adopting the milder method of impriſonment or tranſportation. Their having been exploded in Ruſſia evinces it's practicability, as it is found that the ends of juſtice and ſociety are as effectually anſwered without them. It is, undoubtedly, the buſineſs of the legiſlative power to eſtimate the price of blood; and if they put too ſmall a value upon it, or exceed the extent of their warrant in ſhedding it, the guilt will certainly lie at their door, and not at that of the ſubject, who is bound to ſubmit to the laws of his country, however unjuſtly framed or founded. And probably the crime for which the thief upon the croſs ſuffered, though it was conſtituted capital by the law of the land, yet it might not be of much malignity in the ſight of God; otherwiſe it is hardly to be ſuppoſed, that he would have been aſſured of an immediate admittance into a ſtate of paradiſe.

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* Deut. xvii. 6.

Neceſſity ſupercedes all laws, both civil and religious, and will oblige mankind to violate every thing that is ſacred, in order to preſerve their exiſtence. This was exemplified in the conduct of David and his followers, who, when they were an hungered, entered in and partook of the ſhew bread; and alſo in that of Our Saviour and his diſciples, who, on a like occaſion plucked the ears of corn. And I think that too little regard is paid by government to the laborious part of the community; though on them depends the eaſe and indolence of the wealthy, and on them alſo in a great meaſure depends the ſtability and ſecurity of every government. For without ſuch as are accuſtomed to hardſhip to fight our battles both by ſea and land, we would fall an eaſy prey to the enemy and invader.

I think it would not be improper if government were continually to carry on a work of general national utility, ſuch as the cultivation of the waſte lands, &c. that thither the indigent and unfortunate might always repair, in order by their manual labour, to procure a livelihood.

There are many other particulars reſpecting my plan, which would require to be adjuſted. For inſtance, all wilful and malicious wickedneſs, ought to be a tranſportable offence, becauſe there is no temptation to the commiſſion of it; and alſo as I have already obſerved, the taking of property to a certain amount, ought to be conſtituted tranſportation. But let it ſuffice that I point out the principle and outlines of it, and leave it to others whoſe buſineſs it more eſpecially is, to regulate and adjuſt the particulars. And if I could only be a means of exciting others who may be better qualified to do juſtice to a ſubject of ſuch importance, to turn their thoughts towards pointing out a better method of ſaving life and ſecuring and reſtoring property, my end would be anſwered. I need only add, that it is the good of my fellow-creatures which I have in view, and which induced me to lay my plan before the public. And if my humanity has led me into a miſtaken notion of lenity, or if the old doctrine ſhould be oppoſed to it, that mercy to individuals would be cruelty to the public at large, yet it muſt be allowed to be an error on the merciful ſide, and I flatter myſelf that a generous public will readily pardon my miſtake. However, I cannot but think that our criminal laws, in their preſent ſtate, only afford an opportunity for one part of the community to prey upon the very vitals of another; and ſo long as there is an acre of waſte land either in this or any other habitable part of the world, which is capable of improvement and of being rendered more productive of the neceſſaries of life, I never would wiſh to ſee another fellow-creature ſuffer a violent death. Thither let them be ſent, where they may have an opportunity, by manual labour and induſtry of repairing the injury, of becoming uſeful members of ſociety, and of preparing themſelves by the performance of religious duty, for a ſtate of eternity.

I cannot but condemn a traffic in human fleſh which has long been carried on to the diſgrace of human nature, and the deſtruction of thouſands of our fellow-creatures; I mean the ſlave trade. Is it reaſonable or conſonant to religion or natural juſtice, that becauſe we have made a greater progreſs in arts and ſciences, and invented offenſive weapons, that we ſhould turn our inventions againſt a race of harmleſs beings, who are yet unfortunately in that ſtate of nature in which they were created, to deprive them of their natural rights, and employ them as beaſts of burden? We may be aſſured that the refined hand which is uplifted againſt them, will ſome time be puniſhed by that being in whoſe hand they are, who is the creator of them all, and will not ſuffer any part of the work of his hand to be violated with impunity.

In ſhort, if my plan were adopted I would then expect to ſee ſo much honeſty and induſtry on the one part, and mercy and lenity on the other, as would ſuperſede all further occaſion for ſanguinary laws; and would alſo have ſome hopes of ſeeing that happy time foretold by the Prophet, when "the wolf ſhall dwell with the lamb, and the leopard ſhall lie down with the kid, and the calf and the young lion and the fatling together, and a little child ſhall lead them; they ſhall not hurt nor deſtroy in all my holy mountain; for the earth ſhall be full of the knowledge of the Lord, as the waters cover the ſea."*

After all, there will ſtill be room for the opulent hand to extend itſelf to the indigent in the way of charity, in order to keep them

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* Iſaiah xi, 6.

from falling victims to the laws of their country; and which it behoves every one, who ſtudies the welfare of his fellow-creature to conſider. For we are told by ſcripture,* that the poor ſhall never ceaſe out of the land; "therefore I command thee ſaying, thou ſhalt open thine hand wide unto thy brother, to thy poor and needy in thy land."

The poor in this kingdom till the time of Henry the VIII ſubſiſted entirely by private benevolence and the charitable contributions of well diſpoſed chriſtians. From which we may ſuppoſe, that, in the times of heathen ignorance, the miſtaken notions of property were not carried to ſuch a degree as they now are. The land was more common to them, and they probably lived in a rambling ſtate, and erected a temporary hut where they found it moſt convenient, and applied themſelves to the cultivation of the land, by which they eaſily procured as much as their immediate wants and neceſſities required. And ſuch as were, through age and infirmity, unable to procure a livelihood, were probably allowed to take from the common ſtock as much as was neceſſary, without any legal reſtriction. The dictate of nature ſupplied the place of a law, and informed them that every one had a right to exiſtence, and therefore they readily granted that relief to their fellow-creatures which they themſelves might ſometime require. The author of the Mirror informs us, that, by the common law, the poor were to be ſuſtained by parſons, rectors of churches, and the pariſhioners, ſo that none of them die through default of ſuſtenance; but it does not appear that this ever obtained the force of a law, and there was no compulſive method chalked out for their maintenance till the time of Henry the VIII.

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* Deut. xv. 11.

After the introduction of chriſtianity, which breathes a ſpirit of charity and benevolence, the miniſters of it would naturally interfere in behalf of the neceſſitous, ſo as to prevent them from falling victims to abſolute want; and in the original endowment of tythes it was ordered that a fourth of them ſhould be appropriated to the maintenance of the poor. But this inſtitution, though it might be well intended, was ſoon abuſed; for it was found to diſcourage induſtry among the lower claſs of people, and they began to grow indolent, and to depend upon it.

The monaſteries were their principal reſource, and among other bad effects which attended the monaſtic inſtitutions, it was not perhaps one of the leaſt, (though frequently eſteemed the contrary) that they ſupported and fed a very numerous and idle poor, whoſe ſuſtenance depended upon what was daily diſtributed in alms at the gates of the religious houſes. But, upon the total diſſolution of theſe, the inconvenience of thus encouraging the poor in habits of indolence and beggary was quickly felt throughout the kingdom, and abundance of ſtatutes were made in the reign of Henry the VIII for providing for the poor and impotent, which the preambles to ſome of them recite had of late years ſtrangely increaſed.

It was found that the clergy were now no longer able to maintain the poor, becauſe a great part of the revenue of the church was diſappropriated, and the clergy themſelves denied the privilege of other ſubjects, by a ſtatute enacted in the twenty-firſt of Henry the VIII, which prohibits them from engaging in any trade or merchandize; ſo that their income was barely adequate to the maintenance of themſelves. And therefore it was found expedient in the twenty-ſixth year of the ſame reign, to make a legal proviſion for the poor, which appears to be the firſt compulſory meaſure reſpecting them.

The poor were principally of two ſorts; ſick, and impotent, and therefore unable to work; and idle and ſturdy, and therefore able but unwilling to exerciſe any honeſt employment. To provide in ſome meaſure for both theſe in and about the metropolis, his ſon Edward the VI founded three Royal hoſpitals; Chriſt's and St. Thomas's for the relief of the impotent through infancy or ſickneſs; and Bridewell for the puniſhment and employment of the ſtrong and indolent.

But theſe were far from being ſufficient for the care of the poor throughout the kingdom at large; and therefore, after many other fruitleſs attempts and experiments, it was found expedient, in the forty-third year of queen Elizabeth, to paſs an act for the appointment of overſeers of the poor in every pariſh throughout the kingdom.

The two great objects of this ſtatute ſeem to have been,

1ſt. To relieve the impotent poor, and them only.

2d. To find employment for ſuch as are able to work; and this principally by providing ſtock to be worked up at home, which perhaps might be more beneficial than accumulating all the poor in one common work-houſe; a practice which tends to deſtroy all domeſtic connexions, the only felicity of the honeſt induſtrious labourer, and to put the ſober and diligent upon a level, in point of their earnings, with the diſſolute and idle. Whereas, if none were to be relieved but ſuch as are incapable of getting their livings; if no children were to be removed from their parents but ſuch as are brought up in rags and idleneſs; and if every poor man and his family were employed whenever they requeſted it, and were allowed the whole profits of their labour; a ſpirit of cheerful induſtry would ſoon diffuſe itſelf through every cottage; work would become eaſy and habitual, when abſolutely neceſſary to their daily ſubſiſtence, and the moſt indigent peaſant would go through his taſk without a murmur, if aſſured that he and his children, when incapable of work through infancy, age, or infirmity, would then, and then only, be entitled to ſupport from his opulent neighbours.

This appears to have been the plan of the ſtatute of queen Elizabeth; in which the only defect was, confining the management of the poor to ſmall parochial diſtricts; which are frequently incapable of furniſhing proper work.

However, the laborious poor were then at liberty to ſeek employment wherever they could find it; none being obliged to reſide in the place of their ſettlement, but ſuch as were unable or unwilling to work; and thoſe places of ſettlement being only ſuch where they were born, or had made their abode originally for three years, or, in the caſe of vagabonds, for one year only.

After the reſtoration a very different plan was adopted, which has rendered the employment of the poor more difficult, by authorizing the ſubdiviſion of pariſhes; has greatly increaſed their number, by confining them all to their reſpective diſtricts; has given birth to the intricacy of our poor laws, by multiplying and rendering more eaſy the methods of gaining ſettlements; and conſequently has created an infinity of expenſive law ſuits between contending pariſhes.

The methods of gaining ſettlements are ſo numerous, that it would be troubleſome to enumerate them. Certificates were invented to reſtrain families from acquiring new ſettlements, and which makes pariſhes very cautious of granting them, and of courſe confines them at home where frequently no adequate employment is to be had.

It is hardly to be ſuppoſed that every pariſh can conveniently carry on a manufactory, and therefore this defect ſhould be ſupplied by the county, and then we might expect to ſee it conducted properly and carried on effectually.

Unleſs ſomething of the kind is adopted, there will always be a part of the community in a ſtate of vagrancy. Even perſons who have been brought up to trades and in the mercantile line, are liable to accidents which may reduce them to a ſtate of indigence. For inſtance, though our artificers generally exceed thoſe of other nations in the excellence of their workmanſhip, yet we do not know how ſoon others may rival them, and then there will, of courſe, be a decreaſe of exportation; and even our home conſumption is very uncertain. The whim and caprice of faſhion may prevail ſo far as to lay aſide that article of apparel which has long been adopted, as has lately been experienced in the general ſubſtitution of ſhoe ſtrings inſtead of buckles.

In ſuch a caſe, perſons who have been brought up to thoſe trades muſt either betake themſelves to others, or ſeek for employment where they can find it, or otherwiſe fall a burden upon their pariſhes; and as I have already obſerved, many of them will rather ſteal and commit felonies, than ſubmit to the humiliating circumſtance of aſking the relief of a Pariſh.

If the waſte-lands in the kingdom were put into a progreſſive ſtate of cultivation, I think it would open a large field of employment for the laborious poor. There might be temporary houſes erected upon them, and it would be a means of drawing them off from populous towns which are already overſtocked with them. And if one acre of land can be made to produce ſix times the quantity of the neceſſaries of life that it now does, it muſt certainly be an advantage to the community. It would alſo have a tendency to increaſe population; and if the ſtrength of a nation conſiſts in the number and happineſs of it's inhabitants, as is allowed by moſt political writers, it wants no other argument to recommend it to practice. I need not inſiſt long upon the number of perſons that, in the courſe of a century, have fallen victims to the ſanguinary laws of this country. I need only obſerve, that if they were now alive they would conſtitute an army almoſt ſufficient to repel the moſt formidable enemy.

If our laws are defective, let them be amended; and let not juries be under the neceſſity of committing a pious perjury by mitigating the offence, in order to ſave the life of the offender; neither let the perſon whoſe property has been taken, be obliged to offer violence to his conſcience and the chriſtian religion, in order to recover that property which might otherwiſe be reſtored.

It muſt be allowed, that it is much eaſier to extirpate, than to amend mankind; but yet in the language of an elegent writer and juſt reaſoner,* that legiſlator muſt be deemed a bad ſurgeon, who cuts off every diſtempered limb, becauſe he will not be at the pains to attempt to cure it.

We readily provide againſt every calamity that can accidentally befal mankind. The number and magnificence of our hoſpitals are the admiration of foreigners; but they are equally aſtoniſhed at the number of our criminal executions. There is, ſay they, no nation in the world exceeds England in the number of it's charitable inſtitutions, and yet there is, perhaps, no barbarous nation exceeds it in the number of criminal executions. From which they are inclined to think, that we build hoſpitals out of oſtentation, more than out of any real regard for the welfare of our fellow-creatures. And why ſhould we not endeavour to retrieve our national character from this imputation which is perhaps

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* Blackſtone's Commentaries.

not unjuſtly thrown upon it, and convince them that we have as much real humanity and philanthropy, as any other nation.

What I have ſaid with regard to the employment of *criminals* will, I think, equally if not more ſtrongly apply to *debtors*.

Nothing can be more impolitic and unjuſt than the preſent mode of impriſonment for debt. They are generally torn from their families and employments, and immured within the walls of a priſon, and deprived of the opportunity of paying the debt by labour and induſtry, and conſequently fall a dead weight upon the creditor and the country. Whereas, if every debtor on entering the priſon were under an obligation to work at ſome manufactory for the benefit of his creditor, inſtead of employing himſelf with cards, dice, and other ſpecies of gambling, it would be a means of enabling many an induſtrious perſon to pay his debts, and of reſtoring him to ſociety.

The loſs of liberty is certainly next to the loſs of life, and therefore the legiſlature ought to be cautious of eſtabliſhing and continuing laws, which may enable any part of the community to oppreſs another.

If there were a limited time, beyond which no debtor could be detained in priſon, I think it would be attended with beneficial conſequences. It would prevent perſons from giving credit to any very great amount, and ſuch as were impriſoned for ſmall ſums, would be diſcharged as they worked it out, at a reaſonable ſum *per day*. According to the preſent exiſting laws, the creditor has it in his power, by paying the debtor his groats, to detain him in priſon as long as he lives; and I think, the detaining of perſons in priſon for a number of years for a debt of a few pounds, is inconſiſtent with ſound policy, and repugnant to every principle of reaſon, religion, and humanity.

I have as great a ſenſe of property as any body, and would hold it as ſacred as it ought to be, but yet I would hold the life and liberty of a fellow-creature ſtill more ſo; and I hope that in time ſome method will be deviſed for paying debts, and reſtoring property, without offering violence to the lives of our fellow-creatures, or depriving them of their liberties for any length of time. With regard to the taking of life, I am fully perſuaded, that no ſenſe of property ought to effect it. Man when he enters into ſociety, undoubtedly gives up certain rights; but he gives up ſo much only, as is neceſſary for the good of the whole; and he cannot be ſuppoſed to give up that which is not his to give. Life is the immediate gift of God to man. It is a talent beſtowed upon every one to be employed in the ſervice of the donor and our fellow-creature, and man cannot ſay to his maker, take again thy uſeleſs gift. If any individually offend againſt the community, it is neceſſary that they ſhould collectively ſympathize with him, as a member of the ſame body, and inflict ſuch a puniſhment only as is neceſſary to repair the injury to ſociety. St. Paul ſays,* "we are one body in Chriſt, and every one members one of another," "and whether one member ſuffer, all the members ſuffer with it."†

There is no foundation in nature ſays Judge Blackſtone, why a ſet of words upon parchment ſhould be able to tell the reſt of the world, who ſhall inherit the property of a perſon, lying upon his death bed, and no longer able to retain poſſeſſion of it; much leſs is there any, why the like inſtrument, when put into the form of an indictment for the violation of property, ſhould be able to tell, not only the world, but the creator of it, that he has created a fellow-creature in vain; that though he is in the full poſſeſſion of his faculties, and capable of rendering ſervice to him and his fellow-creatures, yet he is to be deprived of that opportunity, and plunged precipitately into a ſtate of eternity.

Many of our laws originated in the time of monkiſh ignorance, and are ſtill ſtrongly tinctured with it. There was a time when mankind were in danger of being puniſhed both for their learning and ignorance. It was once deemed a crime to read the ſcriptures, and the benefit of clergy, whereby the offender was exempt from puniſhment, originated in the ridiculous ceremony of being able to read at all. And though the ceremony of reading is now laid aſide, yet it's being nominally annexed to acts of parliament, frequently determines the life or death of the offender. And I believe there are few capital convicts, but to the laſt moment of their lives, entertain hopes of pardon. It is therefore abſolutely neceſſary that the ſeverity of puniſhment ſhould be ſoftened into the certainty of it, and better adapted to the nature of the crime.

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* Rom. xii, 5. † 1 Cor. xii, 26.

We are informed in ſcripture, that blood defileth the land;* and though the crimes of perſons ſhort of murder cannot be deemed innocent, yet I think they cannot be ſaid to be of ſuch malignity, as to juſtify a wanton effuſion of blood. For does the life of the offender reſtore property, or does it prevent the commiſſion of crimes? Experience proves the contrary, and therefore I think it is not in the power of argument to juſtify the neceſſity, or expediency of taking it.

A little before the French revolution, there was a doctrine preached up, which was perfectly novel in that kingdom. It was aſſerted from the pulpit, that the richer men are, they have been the greater robbers, and as there can be no ſalvation without reſtitution, they were earneſtly exhorted to diſpoſe of their property in ſuch a manner, as was moſt likely to promote the general good and happineſs of mankind. Though I do not altogether ſubſcribe to this opinion, yet I think that the perſon who lives nearly up to his income, ſtands a better chance for happineſs, than others who heap up needleſs riches, and cannot tell who ſhall gather them; for the ſcripture informs us, that a rich man ſhall with great difficulty enter into the kingdom of heaven, and that it is eaſier for a camel to go through the eye of a needle. Charge them that are rich, ſays St. Paul,† that they be not high minded, nor truſt in uncertain riches, but in the living God, who giveth us richly all things to enjoy, that they do good and be rich in good works, laying up for themſelves a good foundation againſt the time to come, that they may lay hold on eternal life.

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* Numbers xxxv.

It appears at leaſt to have been the intention of religion to diſſuade men from acting upon a hoarding principle. It commands them to "lay not up treaſures upon earth, where moth and ruſt corrupt, and where thieves break through and ſteal."‡ And there was a time when chriſtians poſſeſſed all their worldly goods in common.§ And how happy would it have been for ſociety, if they had preſerved this community! But they are now ſo far from poſſeſſing their goods in common, that for the loſs of a little property, they are not aſhamed to diſpoſſeſs their fellow-chriſtian even of life itſelf; and when they do ſo, it is evident

† 1 Tim. vi, 17. ‡ Mat. vi, 19. § Acts ii, 24.

evident that they have only the name of religion, but are deſtitute of the power of it.

The wiſeſt heads could be of little ſervice to the community, if laborious hands were wanting to carry their ſchemes into execution, ſo that there is an equal and reciprocal dependence between the opulent and indigent, and the laborious and indolent. In fact, there is a chain of dependence runs through the whole community, and if we break any one link of it, we in ſome degree injure the whole.

The very name of a *community* and *commonwealth*, implies a communion both of goods and good offices. This appears to have been the intention of every government, however they may now deviate from it, either in principle or practice; this was the intention of the chriſtian religion, and the practice of the primitive chriſtians, and if this practice had continued, the world would have been a ſcene of greater happineſs. The drone would not have been allowed to ſuck the honey from the induſtrious bee, but every one would have been rewarded according to his work. Labour and induſtry are alſo neceſſary for the preſervation of health, and I preſume that few inſtances of longevity can be found among thoſe who have always indulged themſelves in eaſe and indolence. It appears to be a conſequence of the puniſhment inflicted upon our firſt parent for his tranſgreſſion, and in ſome degree applicable to all mankind, *that in the ſweat of their brow they ſhall eat their bread,*

till

till they return to the ground from which they were taken;* and the more perſons accuſtom themſelves to exerciſe of ſome kind or other, probably the longer they will live, and the healthier they will be; but idleneſs is the parent of vice and immorality, and there cannot be a more deſpicable character than the perſon who pretends he has nothing to do.

Some are of opinion that the equality of mankind exiſts in nature but not in fact, or that it exiſts in theory only, and that all attempts to reduce them to an equality muſt be vain and viſionary. There may be ſome truth in the obſervation; but an exact equality among mankind is not neceſſary to the well being of ſociety.

If mankind were born with equal faculties both of body and mind, and equally wiſe and virtuous in their conduct, they might be ſaid to be upon an equality; but this is a ſtate of perfection not to be expected in their preſent ſtate of frailty and imperfection; and this is what I meant, when I aſſerted that mankind are *naturally* upon an equality, that when they are born with equal faculties, and their conduct equally wiſe and virtuous, they may with propriety be ſaid to be upon an equality.

But though it may be impracticable in our advanced ſtate of refinement to preſerve an equality of property, yet I think the preſervation of life is ſtill practicable, and no caſuiſtical writers have ever been able clearly to prove the contrary. Even refinement itſelf has it's bounds, and except for murder, I think, no ſenſe of it can poſſibly juſtify the taking of life. This is a falſe notion of refinement, it is running from one extreme to the other, and cauſing it to degenerate into the moſt ſavage barbarity.

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* Gen. iii, 19.

With regard to tranſportation, though it is not attended with ſo much violence as execution, yet it may be queſtioned how far it is expedient in a well-regulated government, and can only be juſtified upon the plea of neceſſity. When States have been overſtocked with inhabitants, they have often had recourſe to tranſportation, but this cannot be ſaid to be the caſe with this Iſland; for it is well known that it is capable of maintaining many millions more than it's preſent number of inhabitants.

Soon after government had adopted the preſent mode of tranſportation to *Botany-Bay*, I was in company with a perſon of ſome learning, and who appeared to have well ſtudied the natural rights of mankind, and was alſo a ſtrenuous advocate for them. I repreſented it as a mode of puniſhment which was likely to prove beneficial to this country, and alſo to the natives of that country, eſpecially as a Clergyman was ſent along with them, which would be a means of civilizing them, and of inſtilling into them the principles of religion and morality, and conſequently likely to tend both to their temporal and ſpiritual advantage.—He profeſſed himſelf quite of a contrary opinion. The people, ſaid he, that are ſent thither will only introduce craft and policy, and a ſenſe of property among them, which will lay a foundation for numberleſs feuds and animoſities, to which they are now ſtrangers: And as to your boaſted religion, ſaid he, it has done more harm than good in the world, by dividing mankind into ſects and parties, and conſequently weakening that bond of union which ought to exiſt between all mankind as brethren and fellow-creatures. Beſides, ſaid he, the laws of your country conſtantly offer violence both to natural and revealed religion, by taking the lives of ſome, and by ſending others to that deſolate country, for crimes which the laws themſelves have conſtituted.

But notwithſtanding his opinion to the contrary, I think that if barbarous nations could be civilized by mild methods, and without offering violence to their perſons or natural rights, it would be a means of ennobling the ſpecies, and of giving them a better chance among other nations of defending their natural rights, and protecting their property.

It would alſo be a means of promoting a ſpirit of commerce and manufacture among them, and open a way for an intercourſe with other nations, which would ultimately tend to the mutual advantage both of themſelves and others. And to vindicate religion from his miſtaken imputation, he ought to have conſidered, that it is not religion itſelf, but the miſtaken notions of it, and the blind miſguided zeal of it's profeſſors which has led men to entertain an unfavourable opinion of it.—The chriſtian religion excluſive of it's divine authority, is alſo the completeſt ſyſtem of morality that ever the world received. It teaches men to be gentle and peaceable, and inſpires them with a ſpirit of mildneſs, meekneſs and forbearance, and commands them to look upon all mankind as brethren and fellow-creatures; and if they were to live according to the rules and precepts of it, the world would reſemble a paradiſe. There would be no wars, nor thefts, nor robberies, but love, charity and honeſty would cement and bind all mankind, both as individuals and public bodies.

In ſhort, if my plan were adopted, and a manufactory inſtituted and eſtabliſhed, I might then with propriety, join in the exhortation of St. Paul to unity, and ſay, "*Let him that ſtole ſteal no more; but rather let him labour, working with his hands the thing which is good, that he may have to give to him that needeth.*"*

The benevolent Howard with all his philanthropy, would, perhaps, have been ſtill more beneficially employed, if together with his endeavour to render priſons more healthy and commodious, he had endeavoured to render them uſeleſs, by propoſing a plan for the prevention of crimes, and for proportioning the puniſhment to the nature of them. This would certainly have had the moſt general tendency to alleviate the diſtreſſes of his fellow-creatures.

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* Epheſ. iv. 28.

The crime of robbery is ſaid to have been firſt puniſhed with death in the reign of *Edmund* the 8th King of England; and perhaps Edmund himſelf met with a ſevere retaliation for the ſeverity of the inſtitution, for he was aſſaſſinated by one *Leolf*, a notorious robber, whom he baniſhed the kingdom. Since then, puniſhments for much ſmaller crimes have accumulated to ſuch a degree, that the ignorant and unwary are in continual danger of them, and the learned and cautious can hardly avoid them.

Having now ſhewn the neceſſity of altering and amending our criminal laws, and that no ſenſe of property ought to be a means of taking the lives of our fellow-creatures; what elſe remains, but that every chriſtian join in the common cauſe of reaſon, religion and humanity, and endeavour to procure ſuch conſtitutional redreſs of this grievance, as it undoubtedly requires.

Let them reflect ſeriouſly upon the enormity of the crime of coolly and deliberately taking the life of a fellow-creature, and remember that there will be a time when innocent blood will be required, and when ſuch as have executed judgment without mercy, ſhall alſo themſelves have judgment without mercy.

Let conſtituents inſtruct their repreſentatives to take ſuch meaſures for obtaining this end, as to the wiſdom of Parliament may appear neceſſary, ſo that every human being may be allowed to live as long as his Creator intended him, and that at laſt, after a life of piety and religious labour and induſtry, he may receive a well done good and faithful ſervant, enter into the joy of thy Lord.

ERRATUM—Page 6, line 6th from the bottom, *for* hiſtories *read* hiſtorians.

ſhall alſo themſelves have judgment without mercy.

Let conſtituents direct their repreſentatives to take ſuch meaſures for obtaining this end, as their wiſdom [illegible] [illegible] may be allowed to [illegible] [illegible] and [illegible] piety and religion [illegible] [illegible] good and [illegible] [illegible]

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